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SUBJECT: DRL DAS BARKS-RUGGLES AND IO ACTING DAS REES EU
HUMAN RIGHTS CONSULTATIONS FOCUS ON STRATEGY FOR UPCOMING
UN THIRD COMMITTEE

Classified By: Political Minister Counselor Christopher Davis for reasons 1.4 (b, d).

Summary

¶1. (C) Summary: DRL DAS Erica Barks-Ruggles and IO Acting DAS Grover Joseph Rees met September 1 in Brussels with the EU Working Party on Human Rights (COHOM) Troika as part of ongoing consultations. The EU-hosted meetings were led by Jacques Pellet, French MFA Deputy Director for Human Rights and Humanitarian Affairs, Riina Kionka, Personal Representative for Human Rights of SG Javier Solana, Rolf Timans, Head of the European Commission's Human Rights and Democratization Unit, and Martin Boucek, Deputy Director of the Czech MFA Human Rights and Transition Policy Department. The day-long discussions covered U.S.-EU coordination on UNGA Third Committee priorities as well as the Mauritanian coup, human rights and humanitarian problems in Central Asia, plans for the October BMENA Forum for the Future, and the state of EU and U.S. human rights dialogues with Vietnam and China. The Czechs urged a U.S. return to the Human Rights Council (HRC), and the French provided a brief update on the EU's priorities during the HRC's ninth session from September 8-26. End Summary.

U.S. International Human Rights Priorities

¶2. (C) DAS Barks-Ruggles led off the consultations with a review of several top U.S. human rights concerns (leaving aside issues that would be dealt with during the UNGA Third Committee agenda item). She expressed concern over developments in Mauritania, thanking the EU for its strong condemnation of the recent overthrow of the democratically elected government, and expressing U.S. disappointment, especially given the real strides that were being taken by the former government. She described the legally mandated steps the U.S. will make in cutting off security assistance, and our efforts to work with the Community of Democracies (CD), to condemn the coup, noting that India and South Africa had blocked a CD statement. The Europeans echoed their disappointment at this coup, but wondered at our decision to pursue a statement

from the CD rather than other bodies. Timans said the EU response would include a partial suspension of assistance and then establishment of formalized mechanism for consultations to set benchmarks for the restoration of democracy. He anticipated that Mauritania would be on the agenda of the September semi-annual EU-AU meeting, noting that in general it is difficult to convince African states to agree to criticism of other Africans.

13. (C) On Central Asia, DAS Barks-Ruggles alerted her EU interlocutors that the U.S. is already considering how we can help Tajikistan and Kyrgyzstan should there be humanitarian need in the event of another difficult winter. Fears of food and fuel shortages are well-founded; the U.S. hopes other countries will also start thinking now about provision of assistance. The Europeans expressed interest in the approach, noting attention to dire humanitarian needs can help our focus on other issues as well. Barks-Ruggles expressed concern about Kazakhstan's failure to make progress on commitments it made in Madrid in 2007 for its OSCE chairmanship in 2010. The U.S. is concerned over likely continued Russian attempts to exclude NGOs from the OSCE Human Dimension meeting in Warsaw in October. We need to be united in pressing the Kazakhs now so they will not give in to Russian pressure. The Europeans agreed and added that the Kazakh government has not lived up to commitments it made on media and religious freedom. Barks-Ruggles noted our concerns with Uzbekistan's efforts to convince its neighbors to refool the Andijan refugees. On Central Asia generally, Pellet noted that at a July meeting in Tashkent of EU Ambassadors to Turkmenistan, Kyrgyzstan, Uzbekistan, Kazakhstan and Tajikistan, human rights was the main concern discussed. The EU is having human rights dialogues with each of these countries, including dialogues with civil society alongside. The meeting with Kyrgyzstan is scheduled for October 28. Pellet said the EU tries not to "shame" the countries but to look for tools for urging them forward. All agreed we should look at the potential impact of events in Georgia on Central Asia.

14. (C) On the Middle East, Barks-Ruggles said that the dates of October 18-19 have been set for the BMENA Forum for the Future, with an October 16 civil society meeting in Dubai. She said the UAE has come a long way and expressed hope that there would be high level representation from G-8 countries, especially by French FM Kouchner.

UNGA Third Committee Priorities

15. (C) Barks-Ruggles said our biggest concern for the UNGA Third Committee was the proliferation of No Action Motions and the use of the tactic to attempt to defeat Canada's resolution against Iran, the top U.S. priority. We want to coordinate closely with the EU in identifying countries whose votes could be influenced. The EU has yet to decide which member country will lead the

EU,s efforts to combat no-action motions, but Pellet pledged that we would work together. Acting DAS Rees expressed concern about the increasing tendency of countries to support No Action Motions as a matter of principle, claiming that the UN has no right to interfere in internal matters, when in fact the protection of human rights is a key, and overriding principle. Barks-Ruggles suggested to the French that they reach out to Francophone African countries to lobby hard for "no" votes on the no-action motion, or for abstentions from those who cannot do so. She noted that there are some countries who will not want to vote against Iran, but could be convinced to "take a coffee break" during the voting, thus helping defeat the no-action motion. All agreed that Iran is already actively lobbying countries to defeat the resolution.

¶16. (C) Barks-Ruggles said we continue to press North Korea on human rights issues. There was general agreement that there has been no progress on human rights in DPRK, and there is continuing concern over returned refugees and abductees. The EU stated that it plans to run a Third Committee resolution on the situation in DPRK again this year.

¶17. (C) On Burma, Pellet opened with the EU's concerns about the performance of UN Special Envoy Gambari and UN Human Rights Rapporteur Gambari. Acting DAS Rees noted we had heard that Gambari assured the regime there would be no resolution in the UN Security Council. Barks-Ruggles added that we are concerned that Gambari is feeding into the regime's efforts to take the focus off its commitment to dialogue with Aung San Sui Kyi and shift attention to its planned "roadmap to democracy." All these concerns point to the importance of the EU's Burma resolution, which it will run again this fall.

¶18. (C) The COHOM Troika expressed surprise at Barks-Ruggles,s statement that, for the time being, the U.S. has decided not to run a resolution on Belarus this year. She informed them that a high level decision not to run the resolution had been taken in the wake of the GOB,s August release of all remaining political prisoners. The Europeans expressed the hope that if the September 28 elections go badly or if there are renewed arrests after the elections, that the U.S. would take another look at the resolution. Barks-Ruggles and Rees assured them this was the case and emphasized that we wanted to use this moment to press the Belarus government to take further steps to improve the human rights situation and perhaps to reconsider Belarusian dependence on Russia. The EU expressed concern about the U.S. decision, and suggested running a softer resolution or using the decision to press for more gains. At the end of the discussion, they agreed that the release of prisoners needed to be recognized and that there would be sufficient time for reconsideration should the situation take a turn for the worse.

¶19. (C) On Zimbabwe the U.S. delegation noted that the human rights situation had not received attention in the UN except for the UNSC

discussion. The Europeans noted some improvements, including the election of an opposition party speaker of parliament and the reauthorization of NGOs to distribute humanitarian aid. While all agreed the situation on the ground remained difficult, there was agreement with Acting DAS Rees's point that it would not help if a resolution on human rights in Zimbabwe was run and then lost. Barks-Ruggles agreed with Pellet's assertion that any resolution on an African country would have to have African support. Pellet agreed to ask EU partners if they would be willing to have the EU run a Zimbabwe resolution should the then-ongoing negotiations fail. The U.S. delegation noted the U.S. would take on the task of running the Burma resolution in that case. (Note: A power-sharing agreement, mediated by South African President Mbeki, was signed by opposition leader Tsvangirai and President Mugabe's party on September 15 in Harare. EU human rights officials subsequently met and determined that they would NOT run a Zimbabwe resolution, but would support a U.S. resolution, depending on how the political process in Zimbabwe progresses.)

Thematic Resolutions

¶10. (C) Freedom of Expression: All sides expressed concern about attacks on universally recognized freedoms of expression and opinion. Acting DAS Rees expressed concern that the concept of "defamation of religion" had been twisted to restrict freedom of expression, and that many countries had supported resolutions on the matter without thinking through the consequences. Rees noted that the U.S. has been considering whether a resolution on freedom of expression in the Third Committee could help to take back some of the ground that has been lost on this fundamental freedom, but is concerned that such a resolution could be watered down or hijacked for other purposes. Pellet asked for a proposed text as soon as possible. Rees said that we could provide a "concept paper" but noted that our view was that a core cross-regional group of countries should draft and co-sponsor any Freedom of Expression text, in order to ensure success. The French confirmed that they will be running a resolution on religious tolerance, and said they plan to consult broadly so that the resolution will pass. Barks-Ruggles reminded the COHOM group that we needed to work together to ensure that any religious tolerance resolution does not contain provisions criminalizing "incitement to hatred" language that would not square with the U.S. constitution's free speech guarantees.

¶11. (C) Human Rights and Sexual Orientation: The French, supported by the EU, stated they will solicit support at the UNGA for a declaration on human rights and sexual orientation that will call for the decriminalization of homosexuality. Pellet noted that homosexuality is illegal in some 85 countries in the world. He said that they are seeking a

cross-regional group to help build support for the Declaration but are having difficulty in lining up an African country. Pellet indicated that they are hoping to persuade at least 54 countries to sign the Declaration (including the 27 EU members) by International Human Rights Day December 10. The French described the Declaration as a less ambitious text than some would like, with no reference to discrimination, and hoped the U.S. would be able to support it. Rees asked for a text, noting we had signed on to an earlier, tightly negotiated, Norwegian declaration on sexual orientation. He also suggested France delay the timing for the declaration until after the country-specific resolutions in the Third Committee and UNGA plenary --especially the Iran resolution--were finished. Both he and Barks-Ruggles emphasized the potential of the Declaration to create animosity toward other Third Committee priority resolutions, particularly the country-specific ones, that are perceived as western-led.

¶12. (C) Death Penalty: Pellet confirmed that the EU will run another death penalty resolution this year, "a procedural resolution" that will merely address the expected Secretariat's report that was requested in last year's EU-led death penalty moratorium resolution. Pellet said that the EU has had confirmation from the Secretariat that the report will be released by the Secretariat this fall. Barks-Ruggles noted the U.S. preference for thematic resolutions to be run biannually. Pellet suggested that after this year, the EU will only do so with its death penalty resolution, but that it must address the report this year. Barks-Ruggles signaled that a short, procedural resolution on the report would be better than a comprehensive, substantive resolution, but reiterated U.S. concerns that any death penalty resolution will distract and endanger our efforts on the Iran resolution. Rees added that it would be particularly difficult if the resolution seemed targeted at the U.S. Pellet acknowledged the resolution takes considerable EU effort but said the EU members want to see the resolution adopted. Over lunch, Pellet sought DAS Rees' insight into the political climate surrounding the death penalty in the U.S. Rees noted that the death penalty has bipartisan support in the U.S.

¶13. (C) Rights of the Child: Pellet said that GRULAC will offer a resolution focused on trafficking and child labor. Barks-Ruggles said we would be interested in a narrow resolution focused on those issues. DAS Rees reminded the group that there are some red lines for us since we have not signed on to the Convention on the Rights of the Child, and asked that any resolution be carefully worded and worked with the U.S. so that we could hopefully agree to it.

¶14. (C) Prisoners of Conscience: Barks-Ruggles described the

U.S.-sponsored public affairs event at UN headquarters in July, and expressed appreciation for the EU member country representatives who attended. Barks-Ruggles solicited EU thoughts on how to follow up on the achievement of the Declaration on Prisoners of Conscience (for which the U.S. and EU had jointly persuaded 64 countries to sign). The Europeans did not have any immediate views, but said they would raise the issue at EU human rights official consultations on September 5.

¶15. (C) Human Rights Council: The Czechs, who will take over the EU presidency in January 2009, made a plea for the U.S. to return to active engagement with the HRC, despite its flaws. "We miss you," they said, and asked that the U.S. engage in the Universal Periodic Review in 2010, saying that U.S. non-participation could undermine the whole process. Rees and Barks-Ruggles confirmed that the U.S. will undergo UPR in 2010. They noted that disengagement from the HRC had been a difficult decision at senior levels in the U.S. government. Barks-Ruggles noted that the U.S. is already considering the 2011 mandated review of the HRC, and sought EU ideas on ways the Council could be reformed structurally. The Europeans asked how the U.S. will be able to engage in the 2011 review if we have not been engaged prior to that time. Pellet noted that the U.S. has said it will pursue a robust human rights agenda in other fora, including the Third Committee, but he pointedly stated that the EU will not necessarily be able to robustly support our agenda as the EU has its own priorities and objectives.

¶16. (C) In the upcoming ninth session of the HRC, on Sudan, the French said there were two draft resolutions for the Human Rights Council, one on human rights in the country and one on the renewal of the Special Rapporteur's mandate. France has been working countries with African countries to win their support for the rapporteur mandate renewal, but is not sure two resolutions are possible. "We may have to make a compromise on the human rights resolution to get the rapporteur," said Pellet. Barks-Ruggles urged that the rapporteur's mandate be strong.

¶17. (C) Counter-Terrorism and Human Rights: EU Representative Kionka spoke to "register concern" over several issues related to counter-terrorism, including questions on whether the CIA secret detention program continued. She stated that the program is not in conformity to international law, and asked about the impact of Supreme Court rulings on the continued operation of Guantanamo and for an assessment of the recent Hamdan trial. Barks-Ruggles declined to speculate on ongoing legal cases and suggested this discussion would be more appropriate for ongoing U.S.-EU legal consultations. Timans noted that the EU raised the question because it continued to affect European public opinion of the U.S. commitment to human rights. The EU group pressed the issue at length over lunch, asking about the potential transfer of Guantanamo prisoners to third countries, with DAS Rees explaining some of the difficulty the U.S. has had in releasing some prisoners back to their home countries.

¶18. (C) Human Rights Dialogues: A brief discussion of ongoing human rights dialogues focused on China, which resumed a number of such dialogues just before the Olympics, according to DRL Office Director Grunder. Pellet presented to her the list of prisoners the EU has raised, stating that the Chinese replies to their queries were being translated. The EU had concluded there was no human rights advances surrounding the Olympics and that the resumed dialogue was "pro forma." It was fine on the surface but short on substance; Tibet is still closed and the Chinese deny any problems there. There was concern over China's handling of North Korean refugees, with China not recognizing most of them as refugees, and South Korea not automatically accepting them as South Korean nationals. Grunder asked whether the EU has discussed reconvening the Human Rights Exchange on China to discuss the post-Olympic Games climate in China for human rights. Timans replied that the UK and Belgium have been identified as possible hosts but that he would be sending out a message to EU members soliciting volunteers in September. The Europeans indicated interest in having a digital video conference to further discuss our dialogues with both Vietnam and China.

¶19. (U) DAS Barks-Ruggles cleared this message.

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